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BRAZILIAN LAWYERS' INSTITUTE

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THE AMERICAN CONGRESS OF LAWYERS

THE FOURTH CENTENARY OF THE DISCOVERY OF BRAZIL

OPENING MAY 3rd 1900

CLOSING MAY 13th 1900

RIO DE JANEIRO
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1899

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I

REGULATIONS OF THE AMERICAN CONGRESS OF LAWYERS TO BE HELD IN THE CITY OF RIO DE JANEIRO FOR THE CELEBRATION OF THE FOURTH CENTENARY OF THE DISCOVERY OF BRAZIL

Art. 1. The American Congress of Lawyers convoked by the Brazilian Lawyers' Institute, for the celebration of the 4.th centenary of the discovery of Brazil, will be opened on May 3.rd, 1900.

Art. 2. The undermentioned will be qualified to take part in the work of the Congress :

1. The delegate of the President of the Republic.
2. The members of the National Congress.
3. The ministers of Foreign Affairs, Justice and Interior.
4. The delegates of the States' governments.
5. The judges of the Supreme Federal Court, the Court of Appeal, and the Civil and Criminal Court.
6. The judges of the Supreme Courts of the States.
7. The sectional judge of the Federal District.
8. The Attorney General of the Republic and the Attorney General of the Federal District.
9. The pretors of the Federal District.

10. The secretary of the ministry of Foreign Affairs, Justice and Interior.
11. The juridical associations of the American Republics.
12. The professors of the Faculties of Law, official and non official, of the American Republics.
13. The members of the Brazilian Lawyers'Institute.
14. The honorary and corresponding members of the Brazilian Lawyers'Institute.
15. The Lawyers'Institutes having their seats in the States.
16. Jurisconsults of public repute, invited by the Directory Committee of the Congress.
17. The editors of juridical reviews.
18. The members of the Committee of Direction of the Congress.

Sole paragraph. The members enumerated in N.^{os} 2, 5, 11, 12 and 15 of Art. 2 will be represented by delegates to be appointed, not exceeding three in number; those of N.^{os} 6 and 17 by one and those of N. 9 by three, invited by the Committee of Direction.

The Lawyers'Institute will be represented by thirty effective members.

Art. 3. Admission to the public sessions of the American Congress of Lawyers will only be granted on the exhibition of a personal card at the entrance to the room of sessions.

Art. 4. The Board of the Congress will be formed by the President and Secretary general of the Committee of Direction, and by four Vice-Presidents and four Secretaries who shall be elected.

Art. 5. The Congress will at its first meeting verify the powers of its members, regulate the order of its sessions and elect, besides the members of the Board, as many relaters as may be necessary.

Art. 6. All documents, notes and proposals in connection with the work of the Congress will be held at the disposal of the members by the relaters.

Art. 7. Those who have been appointed or invited to take part in the Congress must signify their acceptance at least ninety days before it meets.

Art. 8. The members of the Congress shall send in before the day of its opening their works in print or manuscript on any of the subjects for discussion.

Art. 9. The Board will meet daily, at 11 A. M. in the place decided upon and will announce the days on which the respective sessions will be held and the subject to be discussed.

Art. 10. The members of the Congress will sign their names on a list at the entrance of the room of sessions, without which they will not be allowed to take part in the debates or voting.

Art. 11. The President will preside over the sessions, direct the course of the debates and decide upon the order of the day.

Art. 12. At the close of the debate, the Congress will vote on the conclusions of the relaters. Any amendment to such conclusions must be delivered to the Board in writing and signed by its proposer, with the support of five members at least; whereupon it will be submitted to the Congress for consideration.

Art. 13. The voting will be symbolic, but can also be nominal, provided that this form of voting should be proposed and approved of by the majority of the Congress.

Art. 14. The Secretary of the Congress will prepare the minutes of the proceedings in which shall be stated the order and the subjects for discussion and the results of the voting.

Art. 15. Although preference is given to the Portuguese language at the debates, the members of the Congress will be allowed to express themselves in other languages, and in this case a resumé of such speeches will be made in Portuguese by the Secretary of the Congress.

Art. 16. For the sake of accuracy and facility of publication of the debates, the speakers are requested to deliver at their earliest convenience a resumé of their speeches to the

Board, or at least to furnish notes for the guidance of those in charge of the printing of the minutes.

Art. 17. Speakers will not be allowed to occupy the tribune for more than 20 minutes on the same subjects in any one session. The right to speak again will only be granted under special circumstances for explanations or corrections, but in no case in reference to questions of an incidental character or of order.

Art. 18. The Congress will last ten days.

Art. 19. At the closing session of the Congress, the mode of establishing a permanent scientific juridical correspondence with other foreign countries represented according to Art. 2, will be decided upon.

The President will close the last session with a general summary of the proceedings of the Congress.

Art. 20. The minutes of the Congress will be published by the Organizing Committee and the said publication will be the exclusive property of the Brazilian Lawyers' Institute.

II

SUBJECTS FOR DISCUSSION

PUBLIC LAW

I. Is the doctrine of a sovereignty divided between the Federal Union and the Federal States (members of the Union) admissible?

II. The principle of the unity of Private Law (the law of the Union regarding the individuals) being admitted, is the principle of differences in legal procedure justifiable, the Union and the States having the right to legislate on this matter according to rules previously laid down in the National Constitution?

III. Does the Federal form of Government necessitate the concurrent duality of jurisdiction of the Union and the States, taking into consideration the existence of the principle of the unity of the Private Law? Assuming the system of a dual jurisdiction established by the Brazilian Constitution are the local juridical authorities absolute in their decision on the subject of their competency, or are they subject to the revision of the Supreme Federal Court, and if so within what limits?

IV. Are there any administrative or Governmental acts outside the jurisdiction of the Courts?

If so, what principle of procedure should serve as a basis?

V. Is the impeachment of the President of the Republic a simple political measure?

In such case, should the penalty, besides the loss of office, consist in disqualification for exercising any other political charge?

Should a President who has resigned be answerable to impeachment?

VI. Can an ordinary Federal law prohibit the States and Municipalities from issuing bonds to bearer of small value to serve as fractional currency?

VII. Have the Federal States and Municipalities the right to contract loans in foreign countries without the authorisation of the National Government?

This right being admitted, are the provisions made for the service and guarantee of such loans by a certain portion of the local public revenue or the property of the State or Municipality independent of the ratification of the National Government?

In the case of insolvency of the State or Municipality in debt, and the loan having been contracted without the guarantee or authorisation of the National Government, what rights have the creditors against the latter?

In case the loan has been contracted with the authorisation of the National Government, what is its responsibility and what should be the positive and practical sanction to ensure the fulfilment of the contract?

VIII. Is the absolute principle of non extradition of a nation's own subject compatible with the principle of mutual judicial assistance between nations and the efficient administration of justice?

IX. Should the right of asylum in political crimes be restricted? What should be the nature of such restrictions?

X. Is it convenient to abolish the system of cellular prisons?

If not, under what conditions must it be established to attain the aims of a good educating and restraining system?

XI. Are the conditional and undetermined sentences convenient and in what cases should they be admitted?

XII. What is the correct definition of a criminal fraud and a fault in the strict sense of the words?

Are there intermediate degrees between fraud and fault? Is fraud admissible in infractions?

XIII. The diversity of certain features of the institution of the Jury in the countries where it has been adopted being given, which of these features should be considered essential?

XIV. Which is the most efficacious manner, from a preventive point of view, of dealing with mendicity and vagrancy? Within what bounds and by what means is it convenient to repress acts of this nature?

XV. What is the best form of organization for establishments intended for young offenders who were acquitted because they acted without discretion?

Should they be different in their organisation from those destined to preserve vagrant, begging and foundling children from crime?

PRIVATE LAW

I. Ought the works published in a foreign country to enjoy the same protection that the civil law of another country bestows on works published in the latter?

II. Ought the civil law to secure to the surviving husband or wife the right of succession to the estate of the deceased, even if his or her relatives claim a right of inheritance?

III. What measures should be taken as regards careless parents who neglect the state and education of their children and leave them exposed to the dangers of idleness and laziness?

Ought these measures to go so far as to deprive, temporarily or permanently, those parents of their parental powers or of any rights that are inherent to such?

IV. Does the system of Homestead satisfy better than emphyteusis the object of the developement of uncultivated lands?

V. Marriage having been dissolved by divorce, according to the personal matrimonial law, can either party marry again in a country where divorce is not admitted?

VI. What law ought to regulate the rights and civil status of foreigners? The law of the country of their nationality or that of their domicile?

VII. What law ought to regulate the form, validity and effects of a contract entered into by correspondence between two persons residing in different countries when one party has made the offer and the other has accepted?

VIII. Ought the law, under penalty of nullity, as contrary to morality and good customs, forbid all agreements as to sales for future delivery, where the intention of the parties is only to settle differences and not the delivery of the objects sold?

Should the law permit one of the contracting parties to sue for the recovery of that which he has voluntarily paid?

To what penalty should the broker who knowingly serves as intermediary in exchange speculations be subject?

IX. What should be the sanction provided by the law in the case of infraction of the rules concerning the constitution of share companies? Absolute nullity or with restrictions?

Or should the sanction consist of penal and civil responsibility as against the founders or first administrators?

X. Are the principal regulations of commercial societies adaptable to cooperative ones? or should the law provide special regulations for the latter?

XI. In case of a conflict of laws what law should decide questions in connection with bills of exchange : 1. as to the capacity of the parties ; 2. as to the form of the bill of exchange ; 3. as to the respective obligations and the responsibility of the parties ; 4. as to the payment ; 5. as to the recourse?

XII. Ought a bill of exchange to be considered by the law only as an instrument of exchange, or as an instrument of exchange and at the same time as a title of credit, or as a simple title of credit independent of all contract of exchange?

Are the following the essential conditions of the bill of exchange: 1. its remittance from a place to another; 2. declaration of the amount; 3. the statement of the date when due; 4. the endorsement?

XIII. Ought assignment of estates in favour of creditors take the place of bankruptcy and according to the same rules as those of bankruptcy?

XIV. Ought unity or generality of failure to be admitted, with or without restrictions?

The principle of generality being admitted, who is the competent judge to pronounce the declaratory sentence of failure?

XV. Ought maritime mortgage to be allowed by law?

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